



**JUSTICE CABINET  
DEPARTMENT OF  
JUVENILE JUSTICE  
POLICY AND PROCEDURES**

**REFERENCES:**

**CHAPTER: Administration**

**AUTHORITY: KRS 15A.065**

**SUBJECT: Records Request**

**POLICY NUMBER: DJJ 134**

**TOTAL PAGES: 7**

**EFFECTIVE DATE: 12/01/2014**

**APPROVAL: Bob D. Hayter**

**, COMMISSIONER**

**I. POLICY**

Records shall be requested in writing according to established protocol in compliance with all applicable state and federal statutes. Designated department personnel shall respond to records requests promptly according to the procedures outlined in this policy.

**II. APPLICABILITY**

This policy shall apply to all staff of the Department of Juvenile Justice.

**III. DEFINITIONS**

Refer to Chapter 100.

**IV. PROCEDURES**

**A. Open Records Requests:**

1. The Kentucky Open Records Act (KRS 61.878-61-884) establishes a right of access to public records. All public agencies are required to make all non-exempt public records available to any requester. All non-exempt public records which are prepared, owned, used, possessed, or retained in the normal course of business, shall be made available for inspection or copying.
2. Open Records Requests received from outside agencies or individuals shall contain:
  - a. A written request;
  - b. Name and address of the requester; and

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- c. A description of the documents with reasonable particularity of the public records being requested.
- 3. Duties of the Ombudsman when processing Open Records Requests:
  - a. When an open records request is received, it shall be immediately forwarded to the Office of the Ombudsman or, if they are unavailable, to the Office of Legal Counsel.
  - b. The Ombudsman shall notify the Commissioner, Deputy Commissioners, Office of Legal Counsel, and Justice and Public Safety Attorney of any open records requests and any subsequent response(s).
  - c. The request shall be scanned to the appropriate record holder(s). The Ombudsman shall notify each record holder of the open records request by e-mail, attaching the Ombudsman certification sheet, if applicable. A description of the requested records shall be provided and the expected date of submission should be noted.
  - d. A response from the Ombudsman, either interim or final, shall be completed, approved, and mailed or faxed within three (3) business days after receiving an open records request.
  - e. When preparing an official response from the Department, a determination, should be made regarding:
    - i. If the Department has custody and control of the requested records. If not, the requester shall be notified of the name and location of the appropriate agency if available.
    - ii. If the public record is not readily available, the Office of the Ombudsman shall provide an explanation for the delay and a reasonable timeframe shall be noted in an interim response.
    - iii. If the request is to be denied, the reason shall be clearly stated with supporting statutes within the response.
    - iv. Whether or not applicable fees will be charged and if pre-payment will be requested pursuant to KRS 61.874(3).
  - f. The Ombudsman shall collect and review all records responsive to the request from the appropriate record holder(s) and shall redact all exempt and confidential information contained within the responsive records pursuant to KRS 610.340(1)(a).
- 4. The custodian shall confer with the Office of Legal Counsel regarding the handling of any request.
- 5. Verbal requests for records will NOT be accepted.

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6. General or blanket requests may be denied. The individual or organization shall be given the opportunity to amend the request to describe the document with reasonable particularity.
7. Requests for a compilation or lists of records shall be denied if the request requires a compilation or listing which does not exist and is not expected to exist in the future.
8. Waivers of fees for law enforcement and other government agencies shall be made on a case-by-case basis.
9. The final response will be approved by the Ombudsman's supervisors, as well as DJJ Office of Legal Counsel, prior to being provided to the requester.
10. The Office of the Ombudsman shall keep an electronic copy of all outgoing responses and attachments.
11. Any required fees, ten (\$0.10) cents per page plus postage, shall be paid by check or money order made payable to the Kentucky State Treasurer. The Department can request that the fee be paid prior to the release of any records.

**B. Youth Record Requests:**

1. Upon receipt of a request for records of youth currently probated, committed, or adjudicated to DJJ, the Office of the Ombudsman shall:
  - a. Confirm that the request and release(s) are valid;
  - b. The request shall be scanned to the appropriate DJJ record holder(s) or other DJJ personnel;
  - c. The Ombudsman should notify each record holder of the request by e-mail and attach the Ombudsman certification sheet, if applicable. A description of the records requested shall be provided and the expected date of submission should be noted;
  - d. The Ombudsman shall collect, review, redact, and respond to, as well as provide the requested records, in a timely manner. A copy will be sent to requester via US Postal Service or Messenger Mail when possible. E-mailing of confidential documents is NOT permissible except under certain circumstances.
  - e. All documents responsive to the request should be scanned to the Ombudsman. An electronic copy of all requests, releases, and outgoing records shall be maintained in that office.
2. Upon notification of a youth record request by the Office of the Ombudsman the record holder shall:

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- a. Compile all applicable records (in their possession) that are responsive to the request;
  - b. Completely fill out the Ombudsman certification sheet;
  - c. Scan the records (certification sheet separately) to the Office of the Ombudsman, if applicable;
  - d. If the record holder does NOT have records responsive to the request, an e-mail shall be sent to the Ombudsman stating this; and
  - e. Redactions of confidential information will be made pursuant to KRS 610.340(1)(a).
3. All requests for records received by anyone other than the Ombudsman shall immediately scan the request to the Ombudsman and notify him or her of the request.
  4. Requests for records from law enforcement persons or peace officers currently investigating or prosecuting a criminal case shall have access to youth records per KRS 610.340(2) & (3).
  5. KRS 610.342 mandates the release of youth records for attorneys representing a child under any proceeding under KRS 600 – 645 or under any adult criminal proceeding.
  6. All youth records requested or submitted from entities within DJJ as part of providing care to the youth do not need to be submitted to the Ombudsman. Email or a DJJ-issued picture identification card is an acceptable method of verification of identity when staff do not know each other by sight or voice.
  7. There is no charge for requests for youth records (unless the records have recently been provided to the same person, then the fee of ten cents (\$0.10) per page will apply).
- C. Supervised Placement Revocation Requests:
1. Prior to the hearing:
    - a. The community Juvenile Service Worker (JSW) shall scan the anticipated hearing documents to the Office of the Ombudsman.
    - b. The Office of the Ombudsman shall review all documents for needed redactions.
      - i. If no redactions are needed, the packet is approved via e-mail.
      - ii. If redactions are needed:
        - a) The requester and the Office of Legal Counsel shall be notified that redactions are necessary.
        - b) Redactions shall be made and the revised packet or redacted pages shall be scanned to the JSW.

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- c. The Office of the Ombudsman maintains an electronic copy of the approved documents.
  - d. The JSW or designee presenting at the revocation hearing is responsible to make two copies of the approved documents.
    - i. One copy shall be forwarded to the youth's attorney as soon as practical and prior to the hearing.
    - ii. The second copy shall only be transferred to the hearing officer during the proceeding if deemed admissible in the Administrative Hearing.
    - iii. Those documents that are not admissible shall be destroyed after the hearing.
2. When a Supervised Placement Revocation request is not received prior to the hearing:
    - a. The JSW or designee presenting the case shall provide a copy of the records specifically related to the revocation to the youth's attorney at the hearing location.
    - b. Only documents deemed admissible in the Administrative Hearing shall be provided to the hearing officer.
  3. If there is not sufficient time to obtain prior approval for all documents supporting the revocation to be released at the Revocation Hearing:
    - a. It is permissible to provide authorized documents to the youth's attorney and the hearing officer to the extent deemed admissible.
    - b. As soon as possible, but no later than twenty-four (24) hours later, excluding weekends and holidays, the JSW shall e-mail or global scan a copy of the released document(s) along with an explanation as to why the release without review was necessary to the Office of the Ombudsman. A copy of the e-mail shall be sent to the Juvenile Services District Supervisor and the Juvenile Services Regional Manager.
- D. Formerly Committed, Detained, or Probated Youth Record Requests:
1. Requests from former DJJ youth and attorneys of former DJJ youth shall be directed to the Records Officer within the Classification Branch.
  2. A parent or guardian of a formerly committed youth is permitted to make a request on behalf of the youth only if the parent or guardian has guardianship of a formerly committed youth who is now legally an adult. Proof of guardianship may be required by DJJ before records requests will be honored in this situation.
  3. A written request from the former client will serve as a release of information and shall contain:

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- a. An approximate time-frame of commitment dates;
  - b. A list of DJJ facilities where youth was housed, in chronological order, if possible; and
  - c. Reasonable specificity of the documents requested.
4. If documents have been archived with the state library system, the documents will be requested from the Department of Libraries and Archives.
  5. Once the custodian obtains the file, an appointment will be scheduled during which the requested documents may be reviewed.
  6. If the location of the requester hinders a personal review, a copy of the documents shall be sent to the former client.
  7. If no records are found, the records officer shall notify the requester.
- E. Interstate Compact Record Requests:
- All requests for information received through the channels established by the Interstate Compact on Juveniles shall be processed through the Interstate Compact Coordinator.
- F. Subpoena and Court Orders for Records:
1. When a youth records request is received in the form of a subpoena or court order, the designated staff shall respond as directed by the Commissioner. If that person is not available, the subpoena or court order should be sent to the Office of Legal Counsel for further advisement.
  2. The Office of Legal Counsel shall receive a copy of all subpoenas and court ordered youth records request responses.
  3. All other court orders and subpoenas of any kind shall be submitted directly to the Office of Legal Counsel for advisement.
- G. Other Record Requests:
1. Requests from entities other than the former DJJ youth or their attorney, such as disability determination requests, shall be directed to the Records Officer within the Classification Branch.
  2. Except in the event of a court order, a written request for information shall be accompanied by a valid release of information and shall be signed by the parent, guardian, or former DJJ youth. If the release is signed by another person, it shall not be processed.
  3. The release of information shall include a detailed list of which DJJ generated documents are requested.
    - a. DJJ cannot release documents generated by other agencies.

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- b. The requester shall be responsible for contacting the outside agency for instructions on how to request records from that agency.
4. The custodian may forward documents to a medical or mental health professional for review prior to release.
5. Once the file is ready for release, an appointment will be scheduled during which the requested documents may be reviewed by the requester.
6. If the location of the requester hinders a personal review, a copy of the documents shall be sent to the former client.
7. If no records are found, the custodian shall notify the requester.

**V. MONITORING MECHANISM**

This policy shall be monitored by the Office of the Commissioner and the Office of Legal Counsel.